

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHRISTOPHER MOEHRL, MICHAEL)
COLE, STEVE DARNELL,)
JACK RAMEY, DANIEL)
UMPA, and JANE RUH, on behalf of)
themselves and all others similarly situated,)

Plaintiffs,)

Case No: 1:19-cv-01610

v.)

Judge Andrea Wood

THE NATIONAL ASSOCIATION OF)
REALTORS, REALOGY HOLDINGS)
CORP., HOMESERVICES OF AMERICA,)
INC., BHH AFFILIATES, LLC, HSF)
AFFILIATES, LLC, THE LONG &)
FOSTER COMPANIES, INC.,)
RE/MAX LLC, and KELLER)
WILLIAMS REALTY, INC.,)

Defendants.)

**DEFENDANTS' MOTION TO EXCLUDE EXPERT TESTIMONY OF
ELHAUGE AND ECONOMIDES**

HomeServices of America, Inc., BHH Affiliates, LLC, HSF Affiliates, LLC, The Long & Foster Companies, Inc., Keller Williams Realty, Inc., and The National Association of Realtors® (collectively "Defendants") respectfully move the Court to exclude the expert testimony of Professor Elhaug and Professor Economides pursuant to *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and Federal Rule of Evidence 702.

In support of their Motion, Defendants state as follows:

1. Professor Elhaug did not employ a reliable methodology to render his opinions. Instead, his proposed testimony consists of speculative predictions that constitute inadmissible *ipse dixit*.
2. Professor Economides' yardstick analysis is unreliable because he fails to consider regulatory factors that impact buyer broker use and commission rates; he ignores the historical

prevalence of buyer-broker use in the U.S.; his selection of yardstick countries was arbitrary and self-serving; he disregards variation within and among his proposed yardstick countries; he fails to justify his use of nationwide averages to predict transactional-level buyer-broker demand and commission rates; he fails to justify comparing commission rates across countries rather than commission amounts; and he creates a damages model that does not fit the facts and legal theories of the case.

3. Defendants' Memorandum of Law in Support of Defendants' Motion to Exclude Expert Testimony of Elhauge and Economides and supporting evidence are filed contemporaneously and incorporated into this Motion. For the reasons set forth therein, the impact and damages opinions of Professors Elhauge and Economides should be excluded.

Dated: December 19, 2023

Respectfully submitted,

**Counsel for HomeServices of America, Inc.,
BHH Affiliates, LLC, HSF Affiliates, LLC,
The Long & Foster Companies, Inc.**

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CERTIFICATE OF SERVICE

I, Robert D. MacGill, an attorney, hereby certify that on December 19, 2023, I caused the foregoing document to be served electronically on all parties of record via this Court's CM/ECF system.

/s/ Robert D. MacGill
Robert D. MacGill